REMARKS

This amendment is responsive to the Office Action dated April 27, 2005. Claims 2 and 18 are cancelled by this Amendment, and claims 1, 3-17, and 19-32 remain pending in the Application. Claims 1-32 stand rejected by the Examiner.

Claim Rejections -- 35 USC § 102

Claims 1, 10-16, 17 and 25-32 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Data Mining News (Data Mining News, Looking Past Automation, MarketSwitch Focuses on Optimization of Marketing Campaigns, Data Mining News, 10 May 1999). Applicant disagrees with these rejections. Nonetheless, in order to expedite prosecution of the instant application, rejected independent claims 1, 17 and 32 have been amended. Claims 1 and 32 have been amended to include the limitations of cancelled claim 2, and claim 17 has been amended to include the limitations of cancelled claim 18. Applicants submit that these amendments overcome the rejections under 35 U.S.C. § 102. The rejections of claims 2 and 17 under 35 U.S.C. § 103 are addressed below.

Claim Rejections -- 35 USC § 103

Claims 2-9 and 18-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Data Mining News in view of Balintfy et al. (Balintfy et al., Binary and Chain Comparisons with an Experimental Linear Programming Food Price Index, The Review of Economics and Statistics, Vol. 52, No. 3, August 1970, pp. 324-330 [JSTOR]). Applicants respectfully traverse these rejections.

The Office Action correctly acknowledges that the Data Mining News reference fails to teach the use of linear programming to solve the objective function for resource allocation, as recited in cancelled claims 2 and 18 (and amended claims 1, 17 and 32). The Office Action is incorrect, however, in its conclusion that it would have been obvious to one of ordinary skill in

the art to combine the linear programming approach described in the Balintfy reference with the Data Mining News reference.
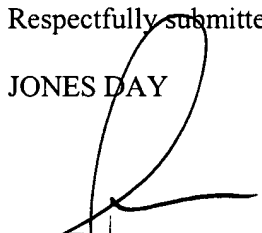
The Data Mining News reference expressly teaches away from the use of linear programming techniques. Specifically, paragraph 11 of the Data Mining News reference states that "...application of classical methods of discrete linear programming is not feasible." The Federal Circuit has held that "it is improper to combine references where the references teach away from their combination." (*See*, MPEP 2145(X)(D)(2), citing *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)). In this case, the disavowal of the use of linear programming in The Data Mining News reference could not be more clear. The combination of The Data Mining News with the Balintfy reference to show the use of linear programming techniques is therefore plainly improper, and the rejections must be withdrawn.

CONCLUSION

For the foregoing reasons, Applicant respectfully submits that pending claims 1, 3-17, and 19-32 are allowable. Therefore, the Examiner is respectfully requested to pass this case to issue.

Respectfully submitted,

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